

1 **VIRGINIA CODE COMMISSION**

2 *Monday, August 20, 2012 - 10 a.m.*
3 *General Assembly Building, 6th Floor*
4 *Speaker's Conference Room*
5 *Richmond, Virginia 23219*

6 **MEMBERS PRESENT:** John Edwards; Greg Habeeb; Ryan McDougale; Charles S. Sharp;
7 Robert L. Calhoun; Thomas M. Moncure, Jr.; E.M. Miller, Jr.; Christopher R. Nolen; Jeffrey S.
8 Palmore; Robert L. Tavenner

9 **MEMBERS ABSENT:** Jim LeMunyon (by phone); Wesley G. Russell, Jr.

10 **OTHERS PRESENT:** Alex Medrano and Karl Findorff, Thomson-Reuters;

11 **STAFF PRESENT:** Jane Chaffin, Karen Perrine, Lilli Hausenfluck, Alan Wambold, Nicole
12 Brenner

13 **Call to order and introductions:** Senator Edwards called the meeting to order at 10:05 a.m. He
14 introduced and welcomed new Commission member Christopher R. Nolen. In response to
15 Senator Edwards' inquiry, Mr. Nolen stated that he intends to continue to serve as the Chair of
16 the Administrative Law Advisory Committee throughout the end of this year.

17 **Approval of minutes:** The minutes of the May 22, 2012, meeting of the Virginia Code
18 Commission were approved as printed and distributed to the members of the Commission.

19 **West's contract proposal for publishing the print edition of the Virginia Administrative**
20 **Code:** After introduction of the item by Senator Edwards, Mr. Tavenner moved that the Code
21 Commission meet in closed session pursuant to (i) § 30-147 B of the Code of Virginia to discuss,
22 consider, review, or deliberate upon proposals which contain trade secrets or proprietary
23 information submitted by Thomson Reuters - West and (ii) § 2.2-3711 A 29 of the Code of
24 Virginia to discuss the award, terms, or scope of a public contract where discussion in open
25 session would adversely affect the bargaining position or negotiating strategy of the
26 Commission. The motion was seconded by Delegate Habeeb and carried unanimously.

27 The Code Commission returned to open session and all members certified that to the best of each
28 member's knowledge that (i) only public business matters lawfully exempted from open meeting
29 requirements under the Virginia Freedom of Information Act and (ii) only such public business
30 matters as were identified in the motion for the closed session were heard, discussed, or
31 considered in the closed meeting.

32 Although, West is unable to continue with the existing contract for publishing the print edition of
33 the Virginia Administrative Code without significant changes, West offered to extend the
34 contract for a few months to provide the Commission an opportunity to make a decision on how
35 it wishes to proceed. Mr. Miller moved that the Commission accept West's offer and extend the
36 existing contract with Thomson Reuters - West until April 2013 under the same terms and
37 conditions of the existing contract. The motion was seconded by Mr. Nolen and carried
38 unanimously.

39 Senator Edwards appointed Mr. Miller, Mr. Nolen, and Mr. Tavenner to serve on a
40 subcommittee to arrange for the contract extension stated in the earlier motion and to consider

the West proposal and develop options and recommendations for contracting for a print edition of the Virginia Administrative Code.

Virginia Administrative Code Recompilations: Lilli Hausenfluck explained the need to recompile certain volumes of the Virginia Administrative Code. Staff recommends that Volumes 6, 7, and 8 be recompiled into four volumes. This recompilation will be handled under the terms of the existing contract.

Mr. Miller moved that the Commission accept staff's recommendation regarding Volumes 6, 7, and 8. The motion was seconded by Mr. Moncure and carried unanimously.

Administrative Law Advisory Committee: Mr. Nolen requested that the Commission appoint Jeffrey Gore and reappoint Elizabeth Andrews, Karen Perrine, Mike Quinan, and himself to ALAC as outlined in the handout in the Commission meeting notebook. Mr. Nolen indicated that Phyllis Errico and Angela Bower had resigned from ALAC. Mr. Palmore moved to accept the slate of members presented by Mr. Nolen. The motion was seconded by Mr. Miller and carried unanimously.

Title 33.1 Recodification: Nicole Brenner and Alan Wambold presented several issues for the Commission's consideration related to the Title 33.1 recodification. Ms. Brenner reviewed the issue of mailing provisions in Title 33.1. She recommended addressing the nine provisions on a case-by-case basis and keeping the provisions consistent with statutory provisions enacted in 2011 that provided an alternative method for state agencies and local governments to give notice by mail (subsection B of §1-206 and § 15.2-107.2). Ms. Brenner advised that she will contact the appropriate state agencies to determine what type of mailing is needed. Upon motion by Mr. Miller and seconded by Judge Sharp, the Commission voted unanimously to accept Ms. Brenner's recommendations.

Ms. Brenner reviewed the handout in the meeting notebooks with the pros and cons of moving the statutory provisions regarding Department of Aviation, the Virginia Port Authority, and the Virginia Commercial Space Flight Authority into new Title 33.2. Staff suggested that against moving these provisions into the new Title 33.2 and advised that the Department of Aviation wishes to remain in Title 5.1. After discussion, the Commission decided against moving Aviation, Port Authority, and Commercial Space Flight Authority provisions into Title 33.2. However, staff will review the related provisions to determine if any particular sections should be moved into Title 33.2.

Mr. Wambold advised that a draft will be reviewed with the workgroup and then brought to the Commission's next meeting.

Other business; public comment; adjournment: Senator Edwards indicated that Judge West is no longer a member of the Commission due to her acceptance of a position in the Attorney General's Office.

The next meeting will be on Monday, September 17, 2012, at 10 a.m.

The Chair opened the floor for public comment. As there was no public comment and no further business to discuss, the meeting adjourned at 11:40 a.m.